

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
LEXINGTON INSURANCE COMPANY as subrogee of  
BP/CG Center I, LLC, BP/CG II, LLC, Citigroup Center  
Condominium, and all other named insureds under policy  
number 8753820,

Case No.: 08 CV 6563

Plaintiffs,

**NOTICE OF APPEARANCE**

-against-

LOCHINVAR CORPORATION, SOUTH ERIE  
PRODUCTION COMPANY doing business as SEPCO-  
ERIE and S. DIGIACOMO & SON, INC.,  
-----X

**To the Clerk of the Court and all parties of record:**

PLEASE TAKE NOTICE, that Defendant S. DiGiacomo & Son, Inc., hereby appears in this action, and that the undersigned law firm has been retained as attorneys for said defendant.

PLEASE TAKE FURTHER NOTICE, that the undersigned attorney, Beth L. Rex, appears as lead counsel in this case for S. DiGiacomo & Son, Inc. I certify I am admitted to practice in this Court.

Dated: New York, New York  
August 27, 2008

FRENCH & RAFTER, LLP

BY:



Beth L. Rex, Esq. (BLR 2025)

Attorneys for Defendant

**S. DiGiacomo & Son, Inc.**

29 Broadway, 27<sup>th</sup> Floor

New York, New York 10006

212-797-3544

File No.: 8400.1152

TO:

David Scott Smith, Esq.  
Gwertzman Lefkowitz Burman Smith & Marcus  
Attorneys for Plaintiffs  
80 Broad Street – 16<sup>th</sup> Floor  
New York, New York 10004  
(212) 968-1001

Roland Theodoor Koke, Esq.  
Rende, Ryan & Downes, LLP  
Attorneys for Defendants  
LOCHINVAR CORPORATION,  
202 Mamaroneck Avenue  
White Plains, New York 10601  
(914) 681-0444

SOUTH ERIE PRODUCTION COMPANY  
d/b/a SEPSCO-ERIE  
1221 Robinson Road  
Erie, PA 16509

**AFFIDAVIT OF SERVICE**

STATE OF NEW YORK     )  
  )ss:  
COUNTY OF NEW YORK    )

**SANDY PEÑA**, being duly sworn, deposes and says:

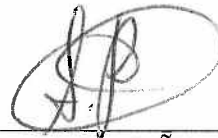
That I am not a party to the within action, am over 18 years of age and reside in Queens County, New York.

That on August 27, 2008, deponent served the within **NOTICE OF APPEARANCE** upon the attorneys and parties listed below by United States prepaid mail by placing same in a mailbox in the State of New York to:

David Scott Smith, Esq.  
Gwertzman Lefkowitz Burman  
Smith & Marcus  
Attorneys for Plaintiffs  
80 Broad Street – 16<sup>th</sup> Floor  
New York, New York 10004  
(212) 968-1001

SOUTH ERIE PRODUCTION COMPANY  
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1221 Robinson Road  
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Roland Theodoor Koke, Esq.  
Rende, Ryan & Downes, LLP  
Attorneys for Defendants  
LOCHINVAR CORPORATION,  
202 Mamaroneck Avenue  
White Plains, New York 10601  
(914) 681-0444



\_\_\_\_\_  
SANDY PEÑA

Sworn to before me this  
27<sup>TH</sup> day of August, 2008

  
\_\_\_\_\_  
NOTARY PUBLIC

BETH REX  
Notary Public, State of New York  
NO. 31-4928883  
Qualified in New York County  
Commission Expires April 4, 20 10

Case No.: 08 CV 6563

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**NOTICE OF APPEARANCE**

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**FRENCH & RAFTER, LLP**

*Attorneys for Defendant*

S. DiGiacomo & Son, Inc.

**29 BROADWAY  
NEW YORK, NEW YORK 10006  
TELEPHONE (212) 797-3544**